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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,369	11/19/2003	Roger S. Kerr	86412RRS	6711

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EXAMINER

NGUYEN, PHUNG

ART UNIT	PAPER NUMBER
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2632

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/717,369

Applicant(s)

KERR ET AL

Examiner

Phung T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-39 is/are allowed.
- 6) ☒ Claim(s) 1-5, 9, 10 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 6-8, 11-19 and 26-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/20/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1, 2, 4, 5, 9, 10, 20, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Puchek et al. (US 6,794,986).

**Regarding claim 1:** Puchek et al. disclose access control method and apparatus for members and guest which comprises a sensor capable of sensing when the medium is exposed to electromagnetic radiation that is characteristic of such a use and generating an exposure signal in response thereto; a memory; and a controller connected to said sensor and storing data in the memory when an exposure signal is detected (col. 5, lines 1-18, col. 6, lines 56-67, and col. 7, lines 1-9).

**Regarding claim 2:** Puchek et al. disclose wherein electromagnetic radiation comprises at least one of a radio frequency signal, a visible light, and a non-visible light (col. 7, lines 1-5).

**Regarding claim 4:** Puchek et al. disclose wherein the electromagnetic radiation sensor capable of generating an exposure signal when the medium is exposed to electromagnetic radiation that is within a predetermined range of electromagnetic radiation intensities (col. 6, lines 65-67).

**Regarding claim 5:** Puchek et al. disclose wherein the sensor is adapted to sense a characteristic exposure comprising a pattern of electromagnetic radiation intensities over a period of time and to generate an exposure signal when the pattern is sensed (col. 7, lines 1-10).

**Regarding claim 9:** Puchek et al. disclose wherein the electromagnetic radiation includes data that identifies at least one of a viewer proximate to the data collection device, the source of the electromagnetic radiation, a location, a time and information characterizing the use of the medium and wherein when the controller stores the digital data in the memory in response to each exposure signal (col. 7, lines 1-3).

**Regarding claim 10:** Puchek et al. disclose a communication circuit adapted to receive a first electromagnetic signal and to generate a second electromagnetic field in the memory (col. 7, lines 1-10).

**Regarding claim 20:** Puchek et al. disclose wherein the data collection device comprises a substrate supporting the sensor, memory and controller as shown in figure 1.

**Regarding claim 22:** Puchek et al. disclose wherein the medium is the Substrate as shown in figure 1.

**Regarding claim 23:** Puchek et al. disclose wherein the medium is formed about the data collection device (col. 5, lines 4-22).

**Regarding claim 24:** Puchek et al. disclose wherein the data collection device is joined to the medium (col. 5, lines 4-22).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puchek et al. in view of Runyon et al. (US 6,774,782).

**Regarding claim 3:** Puchek et al. do not teach wherein the sensor collects energy from the electromagnetic radiation so that the sensor, controller and memory can be operated using the collected energy as claimed. However, Runyon et al. disclose radio frequency personnel alerting security system and method comprising the passive tags obtain operating power from the electromagnetic radiation as seen in figure 1, col. 12, lines 32-40. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the technique of Runyon et al. in the system of Puchek et al in order to reduce cost which is an advantage.

**Regarding claim 21:** Runyon et al. disclose wherein the substrate has an adhesive layer for joining the data collection device to a medium (see abstract).

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Puchek et al. (US 6,774,782).

**Regarding claim 25:** Puchek et al. disclose the data collection device as shown in figure 1 but do not teach the data collection is sized between 10x10x10 microns and 100x500 micron as

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claimed, such limitation is just a matter of design choice to one of ordinary skill in the art. The size of the data collection device presents no new or unexpected results, so long as the data collection device successfully collects data. Therefore, it would have been an obvious design choice to have the data collection is sized between 10x10x10 microns and 100x500 micron as needed.

***Allowable Subject Matter***

6. Claims 6-8, 11-19, and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 29-39 are allowed.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Tumey et al. [U.S. Pat. 6,963,659] disclose fingerprint verification system utilizing a facial image based heuristic search method.

- b. Fufido et al. [U.S. Pat. 6,720,874] disclose portal intrusion detection apparatus and method.

- c. Puchek et al. [U.S. Pat. 6,496,595] disclose distributed biometric access control apparatus and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 571-272-2968. The

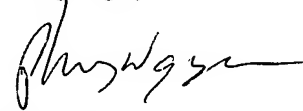
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examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 571-272-2964. The fax numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Phung Nguyen

A handwritten signature in black ink, appearing to read 'Phung Nguyen', with a stylized flourish at the end.

Date: March 2, 2006